

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION
AT MEMPHIS**

LURINE MASSEY,

Plaintiff,

vs.

No.

**UNUM LIFE INSURANCE COMPANY
OF AMERICA,**

Defendant.

COMPLAINT

COMES NOW your plaintiff, Lurine Massey, by and through counsel, and sues the defendant, Unum Life Insurance of America (herein Unum) and for cause of action states and shows to this Honorable Court as follows:

1. The plaintiff, Lurine Massey is a resident of Memphis, Shelby County, Tennessee;
2. That at all times herein mentioned, Unum is a foreign corporation with its principal place of business in the State of New Hampshire. The defendant's agent for service of process is the Tennessee Commissioner of Insurance;
3. This Court has jurisdiction pursuant to 28 USC § 1332(a). There is diversity of citizenship between the parties and the amount in controversy exceeds \$100,000.00. Therefore, subject matter jurisdiction exists in this cause of action;
4. This is a civil action to recover Long Term Disability Benefits pursuant to Section 502(a) of the Employee Retirement Income Security Act of 1974 (herein ERISA);

5. On or about July 1, 1999, the plaintiff became a policyholder of a Long Term Disability policy with Unum. The group number is 517221 and the policy number is 5804566;

6. On or about January 7, 2010, the plaintiff became "**disabled**" and was eligible for disability benefits under said policy. The defendant initially approved Long Term Disability Benefits based upon L5-S1 that caused stenosis. In April 2010 the plaintiff underwent decompression surgery. However, her symptoms did not resolve;

7. Disability benefits were paid beginning July 6, 2010 through July 6, 2012. Benefits beyond July 6, 2012 were denied and terminated;

8. On August 8, 2012, the plaintiff appealed the decision to terminate Long Term Disability Benefits;

9. The defendant affirmed the denial of disability benefits and on October 24, 2012, the defendant issued its final appeal review decision to deny benefits.

10. The plaintiff has been diagnosed with lumbar radiculopathy which required surgical intervention;

12. The plaintiff's medical condition renders her "**DISABLED**" as defined in "**DEFINITION OF DISABILITY**" under the group policy which is the subject of this litigation;

12. The plaintiff has appealed all of her denials of applications for disability benefits and all administrative remedies have been exhausted;

13. The defendant has failed to pay benefits for said policy and plan with benefits amounting to 66 2/3 of the plaintiff's gross monthly income for each month she is unable to engage in a gainful occupation;

14. There will be additional benefits accrued after the filing of this lawsuit as the plaintiff remains disabled;

15. The defendant's denial of disability benefits is arbitrary and capricious as defined by Sixth Circuit case law governing ERISA plans.

WHEREFORE, the plaintiff prays for a judgment against the defendant for all accrued benefits, for any month she is disabled under the policy, for pre-judgment and post-judgment interest, for attorney fees, for future benefits and for relief the Court deems proper under the circumstances.

Respectfully Submitted,
The Law Offices of John E. Dunlap, P.C.

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